

JAMES D. DOTY.

JULY 4, 1842.

Read, and laid upon the table.

Mr. DEAN, from the Committee on the Territories, submitted the following

REPORT :

The Committee on the Territories, to whom was referred the communication from the Secretary of the Treasury, dated May 25, 1842, made to the House in conformity with the resolution of the 14th of the same month, directing him "to communicate to the House of Representatives all the information in his possession touching the payment to James D. Doty" of forty thousand dollars, given by appropriation made by Congress to the Territory of Wisconsin, for the purpose of erecting public buildings, and its expenditure, &c., submit the following report :

The call made on the Secretary of the Treasury, by the preamble and resolution adopted by the House on the 14th May last, appears to have originated from a disagreement between the authorities of the Territory of Wisconsin and James D. Doty, acting as the Treasurer of the board of commissioners to superintend the erection of the public buildings of said Territory—the former insisting that he was accountable alone to the Treasury of the United States, into which he has made a payment of \$1,758 38, as a remaining balance of the \$40,000 appropriated by Congress; and the latter maintaining that he is legally bound to account to the Legislative Assembly of the Territory.

On an examination of the laws of Congress containing these appropriations to the Territory of Wisconsin, it will be found that by the "act establishing the Territory of Wisconsin," approved April 20, 1836, "twenty thousand dollars" were "given to the said Territory," to be "applied by the Governor and Legislative Assembly, to defray the expenses of erecting the public buildings at the seat of Government;" and by an act approved June 18, 1838, the sum of "twenty thousand dollars" more was "granted and appropriated," "to defray the expenses of completing the public buildings of the Territory, which said sum, or so much thereof as may be necessary for that purpose, shall be expended according to the act of the Legislative Assembly of Wisconsin, entitled 'An act to establish the seat of the Government of the Territory of Wisconsin, and to provide for the erection of public buildings,' approved December 3, 1836." From these provisions it is manifest that to the Legislative Assembly of the Territory was left the disposition of the sums appropriated by the two acts of Congress above referred to, for erecting the public buildings. With the legislative authority of the Territory was left the appointment of the agents to superintend the

contemplated work, and to disburse the money "given" or "granted" to the Territory; and to that authority alone were those agents accountable.

The documents accompanying the communication of the Secretary of the Treasury have received the attention of the committee. Among them there is a bond, given by James D. Doty to the Territory of Wisconsin, with two sureties in the sum of forty thousand dollars, as treasurer of the board of commissioners of public buildings, a condition of which is to "annually render to the Legislative Assembly a true account of all moneys received and paid out by him," &c. The documents also show that twenty thousand dollars were paid to James D. Doty, by a Treasury warrant dated March 7, 1837; and the further sum of twenty thousand dollars by Treasury warrant dated November 20, 1838.

With the papers transmitted by the Secretary of the Treasury there is also a letter of the First Auditor of the Treasury Department to the Secretary of the Treasury, dated November 17, 1838, in which he makes allusion to the acts of Congress making the two appropriations of \$20,000 each to the Territory, and to the consequent acts of the Territorial Legislature, and remarks: "Under this legislation, I am of opinion that Mr. Doty is not required to render his account and vouchers to this office, but to the Territorial Assembly, which, in my opinion, is the sole judge of the proper expenditure of the money and of the sufficiency of the vouchers. If Judge Doty stands charged on the books of the Treasury with the moneys advanced to him, a certified copy of the settlement by the Legislative Assembly might be necessary to give him credit."

There is also a letter of the First Auditor to the Comptroller of the Treasury, dated April 26, 1841, stating that Mr. Doty stands charged on the books of the Treasury with the \$40,000 which had been advanced to the Territory of Wisconsin; and the Auditor adds: "Mr. Doty has called on me several times, as the First Auditor of the Treasury, and informed me that he was ready to exhibit his vouchers for the expenditure of the money, and desired that his account might be settled. I have uniformly declined to make the settlement, on this ground: I believe the first appropriation was an absolute donation to the Territory, and that the person who received it was bound to account to the Territorial authorities for its application. I also believe that so much of the last appropriation as was necessary to the completion of the buildings was also a donation, and to be accounted for to the Territorial authorities in like manner as the first; and that the accounting officers have no right to settle or meddle with the accounts and vouchers touching the expenditure of said money, at least until they have been approved by the proper authorities of the Territory; after which, if there is any balance of the appropriation left, it ought to be paid back to the Treasury." The First Auditor, in the same letter, further states that Mr. Doty insisted that he ought not to be held as a debtor on the books of the Treasury, and that a change should be made in the entry. The change, it appears, was made on the suggestion of the First Auditor; so that Mr. Doty stood credited on the Treasury books, "by the amount due to the Territory of Wisconsin, given and granted to the said Territory" by acts of Congress, "and for which he is accountable to the Territory, as appears by his bond given to the Territory therefor, and not to the United States, \$40,000;" which credit was certified by the Comptroller.

Next following the document among the papers transmitted by the Secretary of the Treasury, which exhibits this credit to J. D. Doty, is an order

drawn by Mr. Ewing, dated the 30th June, 1841, on said Doty, directing him to pay to William Selden, Treasurer of the United States, \$1,758 38, "out of the moneys heretofore advanced under the act of Congress, approved June 18, 1838, entitled "An act making an appropriation for completing the public buildings of Wiskonsan." Following this are, 1st, the entry of the Treasurer; 2d, the certificate of the First Auditor; and, 3d, that of the Comptroller, showing that the above amount was paid, &c. Next follows a correspondence between J. S. Ream, the late Treasurer of the Territory of Wiskonsan, and the Secretary of the Treasury, (Mr. Ewing,) touching the payment or deposite which had been made by J. D. Doty in the Treasury of the United States, to which it is not necessary to allude.

Nothing which has been transmitted by the Secretary of the Treasury to the House, under the resolution of the 14th May last, shows that any settlement has ever been made by J. D. Doty with the Treasury of the United States; and it is evident that any vouchers which he may have presented, showing the manner in which he had expended the money appropriated by Congress for the erection of the public buildings of the Territory, were not considered, and were taken away by him. None have been sent by the Secretary of the Treasury to the House; and the acting Auditor, (J. Underwood,) in a letter dated May 18, 1842, to McC. Young, acting Secretary of the Treasury, says: "The account and vouchers referred to in the letter of the 17th November, 1838, as having been presented at this office, being necessary to the settlement of Mr. Doty's accounts with the Territorial authorities, were taken by him, as I am informed by the late auditor, from this office, it being understood that the accounting officers of the Treasury Department had no authority to settle the accounts; but that the settlement was to be made in pursuance of the Territorial laws and with the Territorial authorities, in which opinion Mr. Doty was understood to concur."

The committee, in conclusion, would remark, that they fully concur in the opinion of the officers of the Treasury Department, that the commissioners on public buildings and the treasurer of their board were bound to settle with the legislative authorities of the Territory by whom they were appointed; and they are not enabled to discover that the treasurer of said board of commissioners had any authority to pay into the Treasury of the United States any portion of the money which had been given and granted to the Territory of Wiskonsan, until after the work for which said money was appropriated should have been completed; and not until after a full and complete settlement with the Territorial authorities, and on an exhibition of such settlement at the Treasury of the United States. Under this view of the subject, the committee can only attribute the payment of \$1,758 38 by said J. D. Doty, into the Treasury of the United States, as shown by the papers transmitted by the Secretary, to some error of judgment or misconception, which produced the order of the Secretary of the Treasury of the 30th June, 1841.

All which is respectfully submitted.

